

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JASON E. WALKER,	§
	§
Defendant Below-	§ No. 336, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0405000068
Plaintiff Below-	§
Appellee.	§

Submitted: November 13, 2009

Decided: January 20, 2010

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 20th day of January 2010, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Jason Walker, filed this appeal from the Superior Court's denial of his first motion for postconviction relief. Walker's sole contention on appeal is that the Superior Court erred in refusing to consider the merits of his claim that he was denied his right of self-representation at trial.¹ We

¹ Walker raised additional claims in his postconviction motion, which challenged the effective assistance of his counsel at trial. The Superior Court denied Walker's ineffectiveness claims, but Walker has raised no challenge to that aspect of the Superior Court's ruling in his opening brief on appeal. Accordingly, Walker's ineffective assistance of counsel claims are deemed to be waived. *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

find no error in the Superior Court's conclusion that Walker's claim was procedurally barred. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Walker was tried in July 2005 on charges that included capital murder, attempted robbery, and weapon offenses. A Superior Court jury convicted Walker of two counts of first degree murder, five counts of possession of a firearm during the commission of a felony, two counts of attempted first degree robbery, one count of unlawful imprisonment, and one count of conspiracy. After holding a penalty hearing and receiving the jury's recommendation, the Superior Court sentenced Walker, among other things, to two terms of life imprisonment. This Court affirmed Walker's convictions and sentence on direct appeal.² In that decision, we held, *inter alia*, that Walker's failure to assert his right of self-representation at critical junctures of the proceedings effectively waived his pretrial motion to proceed pro se at trial. Moreover, we concluded that the Superior Court did not err in denying Walker's belated attempt in the middle of trial to renew that motion.

(3) Walker filed a revised motion for postconviction relief in July 2008 and an amended motion in February 2009. After receiving responses from Walker's trial counsel and the State, the Superior Court denied postconviction relief. With respect to Walker's claim that he was denied his right of self-

² *Walker v. State*, 2007 WL 481957 (Del. Feb. 15, 2007).

representation at trial, the Superior Court held that this claim was procedurally barred by Superior Court Criminal Rule 61(i)(4)³ because Walker had raised this claim, and it had been rejected, on direct appeal.⁴

(4) In his opening brief, Walker contends that the Superior Court erred in refusing to consider this previously adjudicated claim under the interest of justice exception found in Rule 61(i)(4). Walker contends that the interest of justice demands reconsideration of his claim because this Court simply was wrong in its ruling on his direct appeal. We disagree. There is nothing new in Walker's postconviction formulation of this claim that was not previously raised and considered by this Court in Walker's direct appeal. Walker's disagreement with this Court's prior ruling does not meet the interest of justice standard in order to overcome the procedural bar of Rule 61(i)(4). Accordingly, we find no error in the Superior Court's rejection of this claim as procedurally barred.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

³ Rule 61(i)(4) provides that any postconviction ground "for relief that was formerly adjudicated...is thereafter barred, unless reconsideration of the claim is warranted in the interest of justice."

⁴ See *State v. Walker*, 2009 WL 1451799, *1 (Del. Super. May 21, 2009).